# LEGAL THEORY REFRAMING GUIDE

## Converting Novel Arguments into Defensible Positions

**Caustin Lee McLaughlin | Date: 16 July 2026**

**Authority: CP-005, SG-003, LF-001 through LF-008**

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## PURPOSE

This document identifies all novel legal theories in the portfolio and provides **reframing guidance** to convert them from declarative claims into **arguable positions** supported by analogy, policy, and existing doctrine. This is essential for judicial credibility and UN Human Rights Council persuasiveness.

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## THEORY 1: Genomic Information as Property (Takings Clause)

**Current Framing (Problematic):**

> "Genomic information is constitutionally recognized as property for Takings Clause purposes."

**Why This Is Problematic:**

- **Ruckelshaus v. Monsanto Co.** (1984) held that trade secrets can be property under the Takings Clause, but this is a **corporate** trade secret case, not personal genomic data.
- **Horne v. Department of Agriculture** (2015) held that personal property (raisins) is subject to Takings Clause, but this is **tangible personal property**, not information.
- No Supreme Court case has held that an individual's genome is "property" in the constitutional sense.

**Reframed Position (Defensible):**

> "The petitioner's genomic data represents a **proprietary interest** in personal information that warrants **constitutional protection** under the Fifth Amendment's Takings Clause, **by analogy** to: (a) Trade secrets (Ruckelshaus v. Monsanto Co., 467 U.S. 986 (1984)); (b) Intellectual property (Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419 (1982)); (c) The emerging recognition of data as property in state law (e.g., California Consumer Privacy Act, Cal. Civ. Code § 1798.100 et seq.).
> The petitioner **proposes** that this doctrine be extended to genomic information, which is uniquely personal, immutable, and economically valuable."

**Key Distinction:**

| Concept | Established? | How to Frame |
|---|---|---|
| Genome = property | NO | "Proposed extension" |
| Trade secrets = property | YES (Ruckelshaus) | "By analogy" |
| Personal data = protected interest | PARTIAL (state law) | "Emerging doctrine" |

Table 1 – continued

| Concept | Established? | How to Frame |
|---|---|---|
| Government seizure of data = taking | ARGUABLE | "Novel application" |

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## THEORY 2: AI Refusal as Due Process Violation

**Current Framing (Problematic):**

> "The refusal to use a specific AI system constitutes a due process violation."

**Why This Is Problematic:**

- Due process requires **notice and opportunity to be heard**, not access to specific technology.
- Courts have consistently held that agencies may choose their own procedures, provided they are fundamentally fair.
- **No case** holds that a disabled person has a right to compel an agency to use a specific AI tool.

**Reframed Position (Defensible):**

> "The petitioner's **requested accommodation** — use of AI-assisted document processing to mitigate dyslexia-related barriers — was denied without individualized assessment of whether alternative accommodations would achieve equivalent access. This violates: (a) **ADA Title II** (42 U.S.C. § 12132): Public entities must make reasonable modifications to policies/practices; (b) **Section 504** (29 U.S.C. § 794): Federally funded programs must provide meaningful access; (c) **CRPD Article 9** (Accessibility): States must ensure access to information and communication for persons with disabilities.
> The petitioner does **not** claim an absolute right to a specific AI system, but rather argues that the agency failed to engage in the **interactive process** required by disability law to determine whether AI-assisted processing (or an equivalent accommodation) would be reasonable and effective."

**Key Cases to Cite:**

- **Barnes v. Gorman**, 536 U.S. 181 (2002) (ADA reasonable accommodation standard)
- **US Airways, Inc. v. Barnett**, 535 U.S. 391 (2002) (undue hardship defense)
- **EEOC v. Abercrombie & Fitch Stores, Inc.**, 575 U.S. 768 (2015) (failure to accommodate = disparate treatment)

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## THEORY 3: SSA Must Accept Specific AI Accommodation

**Current Framing (Problematic):**

> "The Social Security Administration is legally required to accept a particular AI-based accommodation."

**Why This Is Problematic:**

- The SSA has **no statutory obligation** to use external AI systems.
- The accommodation framework requires **reasonable** modifications, not **specific** ones.
- **SSR 16-4p** (Social Security Ruling on Evaluating Opinion Evidence) does not mention AI.

**Reframed Position (Defensible):**

> "The petitioner **requests** that the SSA evaluate AI-assisted medical evidence summarization as a **reasonable accommodation** under: (a) 20 C.F.R. § 404.1593 (disability review procedures); (b) 20 C.F.R. § 416.994 (SSI disability redetermination); (c) SSA Program Operations Manual System (POMS) DI 23001.001 (evidence evaluation).
> The petitioner proposes that the SSA adopt a **pilot program** to test AI-assisted evidence processing for neurodivergent claimants, consistent with: (a) **Executive Order 13985** (Advancing Racial Equity and Support for Underserved Communities); (b) **HHS Strategic Plan FY2022-2026** (health equity and digital transformation); (c) **CRPD Article 4(3)** (States shall consult with persons with disabilities in developing policies).
> The petitioner **does not** demand mandatory adoption, but rather seeks **meaningful consideration** of a proposed accommodation that addresses documented barriers faced by neurodivergent claimants."

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## THEORY 4: CIT Jurisdiction Over Post-Quantum Hardware

**Current Framing (Problematic):**

> "The United States Court of International Trade would have jurisdiction over these claims because they involve post-quantum hardware or international standards."

**Why This Is Problematic:**

- The CIT has **jurisdiction over customs and international trade**, not domestic intellectual property or disability rights.
- 28 U.S.C. § 1581 limits CIT jurisdiction to:
  - (a) Challenges to customs duties;
  - (b) Trade remedy proceedings;
  - (c) Certain import/export disputes.
- Post-quantum cryptography is **not an international trade issue** unless it involves import/export of cryptographic hardware.

**Reframed Position (Defensible):**

> "To the extent the petitioner's post-quantum cryptographic inventions involve: (a) **Importation of cryptographic hardware** (e.g., FIPS 140-3 validated HSMs); (b) **Export-controlled encryption technology** (EAR/ITAR classifications); (c) **International standards compliance** (NIST, ISO/IEC 19790);
> The petitioner **preserves** the right to bring ancillary claims in the CIT for any trade-related disputes, while acknowledging that the **primary** disability rights and property claims properly belong in: (a) Federal district court (ADA/§1983); (b) Bankruptcy court (USEC creditor claims); (c) Maryland

> state court (mandamus, trust registration)."

**Alternative: Withdraw CIT Claim (Petition #4)**

Given the weak jurisdictional basis, consider:

- **Withdrawing** Petition #4 from CIT
- **Consolidating** trade-related claims into Petition #2 (Federal Circuit) or Petition #9 (Maryland mandamus)
- **Filing** a separate CIT action ONLY if a specific customs/trade dispute arises (e.g., importation of HSM hardware for HSPA-9 SPU)

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## THEORY 5: Degree Award as ADA Reasonable Accommodation

**Current Framing (Problematic):**

> "The University of Maryland Global Campus must immediately award me a Bachelor of Science in Jurisprudential Technology as a reasonable accommodation."

**Why This Is Problematic:**

- Reasonable accommodation modifies **how** education is provided, not **what** credential is awarded.
- No case holds that a university must award a degree based on prior learning without formal evaluation.
- **UMGC's PLA policy** requires formal submission, faculty review, and credit award — not automatic degree conferral.

**Reframed Position (Defensible):**

> "The petitioner **requests** that UMGC: (a) **Expedite** the Prior Learning Assessment (PLA) process as a reasonable accommodation under Section 504 and CRPD Article 24; (b) **Assign** a faculty evaluator with expertise in the petitioner's demonstrated competencies (cryptography, distributed systems, legal theory); (c) **Evaluate** the petitioner's portfolio for credit award toward an **existing** degree program (e.g., B.S. in Computer Science, B.S. in Legal Studies, or Individualized Studies); (d) **Consider** a **proposed** B.S. in Jurisprudential Technology as an **individualized degree plan** under UMGC's academic policies, if no existing program adequately captures the petitioner's competencies. The petitioner **does not** demand automatic degree conferral, but rather seeks **procedural accommodation** — a fair, timely, and individualized evaluation of demonstrated learning — consistent with: (a) **UMGC PLA Policy** (https://www.umgc.edu/…); (b) **ACE Credit Recommendations** for experiential learning; (c) **CAEL Standards** for Prior Learning Assessment."

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## THEORY 6: Desoxyn PAP as Human Right

**Current Framing (Problematic):**

> "Order the United States to create a federally-funded Patient Assistance Program for Desoxyn for treatment-refractory ADHD."

**Why This Is Problematic:**

- While CRPD Article 25 guarantees the right to health, it does **not** mandate specific medication programs.
- The UN Human Rights Council **cannot** order the United States to create domestic pharmaceutical programs.
- Desoxyn (methamphetamine HCl) is a **Schedule II controlled substance** with significant abuse potential; federal funding for PAP is politically and legally complex.

**Reframed Position (Defensible):**

> "The petitioner **requests** that the Human Rights Council: (a) **Recognize** that denial of medically necessary treatment for severe ADHD, based on stigma rather than clinical evidence, violates CRPD Article 25 (right to health) and Article 2 (non-discrimination); (b) **Recommend** that the United States: (i) Ensure that prior authorization requirements for Desoxyn are **clinically grounded** and not based on blanket stigma; (ii) Provide **training** for prescribers and insurers on treatment-refractory ADHD; (iii) Consider **pilot programs** for patient assistance for Schedule II medications when medically necessary and alternatives have failed; (c) **Request** that the Special Rapporteur on the Right to Health investigate systemic barriers to ADHD treatment for adults.
> The petitioner **files under seal** the complete medical history and genomic markers supporting the medical necessity determination, and **requests** that the Council treat this as a **general recommendation** rather than an individual remedy."

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## THEORY 7: CIT Public Trust for IP Protection

**Current Framing (Problematic):**

> "The Court of International Trade should create a CIT Public Trust to hold my IP in protective custody."

**Why This Is Problematic:**

- The CIT has **no statutory authority** to create public trusts.
- Federal courts may appoint **receivers** or **custodians** in specific cases, but not as general IP protection mechanisms.
- A "CIT Public Trust" is a **novel concept** with no legal basis.

**Reframed Position (Defensible):**

> "The petitioner **proposes** the establishment of a **federally chartered intellectual property holding vehicle** — analogous to: (a) **The Patent Trust** (proposed in academic literature); (b) **Open Invention Network** (defensive patent pool); (c) **Creative Commons** (licensing frame-

work).
The petitioner **requests** that the USPTO or Congress consider: (a) A **safe harbor** for neurodivergent inventors to deposit IP in escrow during accommodation disputes; (b) **Expedited examination** procedures for inventors with documented disabilities; (c) **Pro bono patent representation** programs (existing: USPTO Patent Pro Bono Program).
In the interim, the petitioner **voluntarily deposits** all technical documentation with: (a) **The Internet Archive** (permanent public record); (b) **A trusted third party** (law firm or university library) for safekeeping."

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## UNIVERSAL DISCLAIMER TEMPLATE

Insert this paragraph at the beginning of every legal filing:

> **LEGAL THEORY DISCLAIMER:** The arguments presented herein include both (a) **established legal propositions** supported by binding precedent, and (b) **proposed legal theories** that the petitioner advances in good faith as extensions of existing doctrine. The petitioner acknowledges that no court has yet adopted the proposed theories, and presents them as **policy arguments** for judicial or legislative consideration, not as statements of existing law. All factual representations are supported by the cited evidence to the best of the petitioner's knowledge, information, and belief.

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## REVISED PRAYER FOR RELIEF (UN COMMUNICATION)

**Original (Problematic):**

> "Order the immediate cash release… Order the registration… Order the award…"

**Revised (Defensible):**

> "WHEREFORE, the petitioner respectfully requests that the Human Rights Council: > 1. **Accept** this communication for review under the CRPD Optional Protocol; > 2. **Request** that the United States provide a **response** within six months addressing: > (a) The status of Claim #3-0569-00431 and the legal basis for any delay; > (b) The availability of reasonable accommodations for neurodivergent inventors at the USPTO; > (c) The accessibility of higher education for persons with disabilities who demonstrate competency through non-traditional means; > (d) The barriers to treatment-refractory ADHD medication access; > 3. **Recommend** that the United States: > (a) Process the unclaimed property claim without further delay; > (b) Establish clear procedures for disability accommodation in patent examination; > (c) Expand prior learning assessment pathways in federal and state universities; > (d) Review prior authorization policies for Schedule II medications in treatment-refractory cases; > 4. **Retain** jurisdiction to monitor implementation of these recommendations; > 5. **Grant** any other relief that justice and human rights require."

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## CONCLUSION

The portfolio's **substantive arguments** are intellectually serious and legally creative. However, **framing matters** in judicial and international proceedings. By distinguishing between:

- **Established law** (cited with confidence)

- **Analogous precedent** (cited with qualification)
- **Proposed extensions** (framed as policy arguments)
- **Novel theories** (presented with appropriate humility)

The petitioner maintains **credibility** while still advancing **ambitious legal reform.**

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**Certified by:** LCSE Layer 4 (Domain Modeling — Legal)
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*"The difference between a crank and a visionary is evidentiary support and rhetorical framing. Both may be right; only one will be heard."*

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